Justiciability defines the boundaries of law and adjudication. Essentially, whether the court has the right to rule on a matter. In constitutional cases, establishing justiciability is vitally important, claims can be dismissed if they fail to meet certain requirements (Digital Comments, 1) It’s important to note the difference between justiciability and judicial activism, the courts role to develop and change laws(312). The biggest controversy in determining justiciability is over the interpretation of the ‘political question’ doctrine. The doctrine was well-defined in a court opinion on Baker v. Carr(<http://law2.umkc.edu/faculty/projects/ftrials/conlaw/politicalquestions.html>). The doctrine limits the adjudication by the courts on matters that would be within the realm of other government authorities (Digital Comments).

The debate over the justiciability of partisan gerrymandering has raged on for decades. It began with Baker v. Carr in 1962. A civil action suit was a brought against the state of Tennessee over its reapportionment process, the drawing of boundaries for the electing districts. The case was initially dismissed by a three-Judge court, who argued "(1) that the Court lacks jurisdiction of the subject matter, and (2) that the complaint fails to state a claim upon which relief can be granted . . . ". But the plaintiffs appealed to the Supreme Court. The plaintiffs argued that the matter was justiciable because it. This violated the Equal Protection Clause of the 14th amendment, which guaranteed that no state could deny to any person within its jurisdiction “the equal protection of the laws. (http://law2.umkc.edu/faculty/projects/ftrials/conlaw/baker.html)

**Justiciability Chart:**

A. The What: Claim must arise in the context of an actual “case or controversy” between adverse parties, and the constitutional issue must itself be justiciable(913)

1. The actual case requirement: The court argues “judicial Power” extends only to cases and controversies brought before the courts for determination by such regular proceedings as are established by law or custom for the protection nor enforcement of rights, or the prevention, redress, or punishment of wrongs(913)

a. The adversity requirement and the rule against collusive cases: must be between parties whose interests are adverse(913)

b. The rule against advisory opinions: will not give advisory opinions or rule in cases whose outcome can be determined by an independent and adequate state ground (914)

-In 1793, Justices of the Supreme Court declined a request from President Washington and Secretary of State Jefferson who asked them to answer a series of questions concerning America’s role as a neutral toward a war between England and France(914)

2. The justiciable issue requirement: a constitutional claim must arise and the specific issue must also be justiciable, not a political question or subject to extra-judicial review (915)

a. The political question doctrine: Summarized Baker v. Carr (915)

b. The rule against extra-judicial review: as said (917)

B. The When(917)

1. Ripeness: court should only adjucate on claims that are ripe(“whether the harm asserted has matured sufficiently to warrant judicial intervention.”(918)

2. Mootness: moot claims (if legal proceedings regarding it can have no effect or is beyond the reach of the law) are generally not justiciable and should be dismissed(918)

-Exceptions: “Exceptions to the mootness requirement include claims "capable of repetition, yet evading review," claims by a certified class representative, and claims mooted by respondent's voluntary cessation of the challenged conduct.” (919)

-1) Capable of repetition yet evading review, 2) Class actions, or 3) Voluntary cessation by respondent(933)

3. The rule of necessity: the courts shouldn’t rule on constitutional issues in advance of them being necessary(921) if an alternative statutory basis exists, courts should not rule

C. The Who (Standing): claimant must be in a proper party to present claim, mostly focus on standing (921)

1. General standing:

-Claimant must have suffered an “injury in fact” that was caused by the unconstitutional government action and that will be redressed by the relief requested(922)

2. Taxpayer standing: “individuals do not have standing solely by virtue of their status as federal taxpayers to challenge allegedly unconstitutional conduct by officers of the federal government(929)

-Exception:” 1) the challenged action must be a congressional exercise of the taxing-spending power and 2) the constitutional limit invoked must be an express limit on the taxing-spending power.”(930)

3. Organizational standing(934)

a. Members have standing in their own right,

b. The claim is germane to the organization's interests, and

c. Participation by individual members is not required.